

Message Text

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ORIGIN EB-07

INFO OCT-01 EUR-12 EA-10 ISO-00 JUSE-00 L-02 CIAE-00

INR-07 NSAE-00 PA-02 RSC-01 USIA-15 PRS-01 SP-02

COME-00 TRSE-00 STR-04 /064 R

DRAFTED BY EB/CBA/BP:RJBUSHNELL:VJW

APPROVED BY EB/CBA/BP:HJWINTER

JUSTICE - DROSENTHAL (SUBST)

L/EB - PTRIMBLE (INFO)

EUR/NE - CFLOYD (PHONE)

EUR/RPE - DHARDING

EA/ANP - HLANG

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P R 142224Z NOV 74

FM SECSTATE WASHDC

TO AMEMBASSY LONDON PRIORITY

AMEMBASSY CANBERRA

INFO USMISSION OECD PARIS

UNCLAS STATE 251658

E.O. 11652: N/A

TAGS: ETRD, US, UK

SUBJECT: ANTITRUST: BRITISH PUBLISHERS

1. THE JUSTICE DEPARTMENT HAS INFORMED THE DEPARTMENT THAT IT MAY FILE IN THE NEAR FUTURE A CIVIL ANTITRUST SUIT AGAINST A NUMBER OF AMERICAN PUBLISHERS AND SOME AMERICAN SUBSIDIARIES OF BRITISH PUBLISHERS. THE U.S. SUBSIDIARIES OF BRITISH PUBLISHING HOUSES ARE OXFORD UNIVERSITY PRESS AND PENGUIN BOOKS, INC. IN ADDITION, THE COMPLAINT WOULD NAME AS CO-CONSPIRATORS THE BRITISH PUBLISHERS ASSOCIATION AND ITS MEMBERS.

2. EVIDENCE HAS BEEN GATHERED IN THIS MATTER WHICH JUSTICE BELIEVES ESTABLISHES THAT FROM AT LEAST 1947 TO DATE, AMERICAN AND BRITISH PUBLISHERS HAVE DIVIDED THE

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WORLD MARKET FOR ENGLISH-LANGUAGE BOOKS INTO EXCLUSIVE

TERRITORIES AND HAVE ALLOCATED THESE EXCLUSIVE TERRITORIES AMONG THEMSELVES. THE BRITISH HAVE BEEN GRANTED APPROXIMATELY SEVENTY COUNTRIES WHICH ARE OR FORMERLY WERE ASSOCIATED WITH THE BRITISH COMMONWEALTH, AND THE UNITED STATES GENERALLY WAS GRANTED THE UNITED STATES, CANADA AND THE PHILIPPINES. THE DEFENDANTS HAVE EFFECTUATED THIS ALLOCATION THROUGH THE GRANTING OF EXCLUSIVE COPYRIGHT LICENSES FOR EACH OTHER'S DESIGNATED TERRITORIES. THERE IS ALSO EVIDENCE THAT BRITISH PUBLISHERS, THROUGH A MARKET AGREE-

MENT PREPARED BY THEIR TRADE ORGANIZATION, THE PUBLISHERS ASSOCIATION, HAVE AGREED NOT TO DEAL WITH ANY AMERICAN PUBLISHER WHO REFUSES TO GRANT THE EXCLUSIVE TERRITORIES ALLOCATED TO THE BRITISH PUBLISHER UNDER THE AGREEMENT.

3. JUSTICE BELIEVES THE DEFENDANTS AND CO-CONSPIRATORS HAVE CLEARLY RESTRAINED THE INTERSTATE AND FOREIGN COMMERCE OF THE UNITED STATES, AND THUS ARE PROPOSING THAT THE AGREEMENT OR UNDERSTANDING BE DECLARED ILLEGAL AND OTHER APPROPRIATE RELIEF BE GRANTED.

4. FOR LONDON: SINCE THERE ARE AMERICAN SUBSIDIARIES OF BRITISH COMPANIES NAMED AS DEFENDANTS, AND SINCE THE PUBLISHERS ASSOCIATION OF THE UNITED KINGDOM AND ITS MEMBERS ARE NAMED AS CO-CONSPIRATORS, EMBASSY LONDON IS REQUESTED TO IMMEDIATELY NOTIFY THE BRITISH GOVERNMENT, PURSUANT TO THE 1967 OECD RECOMMENDATION, OF THE POSSIBILITY OF THIS SUIT BEING COMMENCED BY THE PROPOSED COMPLAINT. ACCORDING TO OECD, APPROPRIATE OFFICE IS: DEPARTMENT OF TRADE AND INDUSTRY, COMMERCIAL RELATIONS AND EXPORTS, DIV. 1, VICTORIA STREET, LONDON, S.W. 1.

5. FOR CANBERRA: AS THE FACTS INVOLVED IN THIS MATTER WERE ORIGINALLY BROUGHT TO THE ATTENTION OF THE DEPARTMENT BY THE AUSTRALIAN EMBASSY HERE, WE THINK IT APPROPRIATE THAT THE EMBASSY INFORM THE AUSTRALIAN GOVERNMENT OF THIS POSSIBLE ACTION. OECD DOES NOT LIST APPROPRIATE OFFICE, BUT WE BELIEVE YOU SHOULD CONTACT: TRADE PRACTICES COMMISSION, CITY MUTUAL BUILDING, HOBART PLACE, CANBERRA CITY, A.C.T. 2601.

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6. DEPARTMENT HAS NOTIFIED BRITISH AND AUSTRALIAN EMBASSIES BY TELEPHONE OF THE POSSIBLE ACTION. PLEASE INFORM DEPARTMENT PROMPTLY WHEN NOTIFICATION COMPLETED, INCLUDING ANY HOST GOVERNMENT REACTION. INGERSOLL

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ANTITRUST, BUSINESS FIRMS, PUBLISHING SERVICES
Control Number: n/a
Copy: SINGLE
Draft Date: 14 NOV 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE251658
Document Source: CORE
Document Unique ID: 00
Drafter: RJBUSHNELL:VJW
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740329-0495
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19741142/aaaabjlg.tel
Line Count: 112
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EB
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 13 NOV 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <13 NOV 2002 by martinml>; APPROVED <21-Nov-2002 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: ANTITRUST: BRITISH PUBLISHERS
TAGS: ETRD, US, UK
To: LONDON CANBERRA
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005